

United States Environmental Protection Agency  
Region 5

IN THE MATTER OF:	)	
	)	
Aexcel Corporation	)	FINDING OF VIOLATION
Mentor, Ohio	)	
	)	EPA-5-04-OH-10
	)	
Proceedings Pursuant to	)	
the Clean Air Act,	)	
42 U.S.C. §§ 7401 <u>et seq.</u>	)	

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**FINDING OF VIOLATION**

The United States Environmental Protection Agency finds that Aexcel Corporation (Aexcel) is violating Sections 183 and 111(e) of the Clean Air Act (Act), 42 U.S.C. §§ 7511b and 7411(e). Specifically, Aexcel is violating the National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D as follows:

**Regulatory Authority**

1. Section 183(e) of the Act, 42 U.S.C. § 7511b(e), authorizes U.S. EPA to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of volatile organic compounds (VOCs).
2. Pursuant to Section 183(e) of the Act, 42 U.S.C. § 7511b(e), on September 11, 1998, U.S. EPA promulgated National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D.
3. 40 C.F.R. § 59.402(a) requires that each manufacturer and importer of any architectural coating subject to Subpart D ensure that the VOC content of the coating does not exceed the applicable limit in Table 1 of Subpart D of the Architectural Coating Regulations (Table 1 of Subpart D).
4. 40 C.F.R. § 59.405(a)(3) requires each manufacturer and importer of any architectural coating subject to Subpart D

to display the VOC content of the coating on the label or lid of the container in which they sell or distribute the coating. The VOC content must be indicated either as the actual VOC content of the coating, or as the VOC content limit with which the coating is required to comply, and does comply.

### **Factual Background**

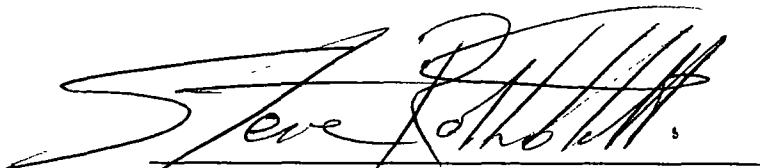
5. Aexcel owns and operates an architectural coating manufacturing facility at 7373 Production Drive, Mentor, Ohio.
6. Aexcel manufactured and distributed coatings between September 13, 1999 and December 31, 2002, including but not limited to those listed in Attachments A and B. The coatings listed in Attachments A and B are recommended for field application to stationary structures and their appurtenances.
7. Since September 13, 1999, Aexcel has manufactured and distributed "architectural coatings," as defined in 40 C.F.R. § 59.401.
8. The coatings listed in Attachment A, identified as "traffic marking coatings" in the column titled "Category from Table 1, Subpart D" are "traffic marking coatings," as that phrase is defined at 40 C.F.R. § 59.401.
9. The VOC content limit for traffic marking coatings, as stated in Table 1 of Subpart D, is 150 grams of VOC per liter of coating.
10. Clear Acrylic Sealer, Item Number 22C-F011, is a "Quick Dry Primer, Sealer, and Undercoater," as that term is defined at 40 C.F.R. § 59.401.
11. The VOC content limit for, Quick Dry Primers, Sealers, and Undercoaters, as stated in Table 1 of Subpart D, is 450 grams of VOC per liter of coating.
12. Aexcel did not provide the VOC content on the labels or lids of the containers for the coatings listed in Attachment B.
13. Aexcel did not submit exceedance fees for the production of architectural coatings for the period of time between September 13, 1999 through December 31, 2000.

14. Aexcel submitted exceedance fees, by March 1 following the calendar year, for the production of architectural coatings during calendar years 2001 and 2002.
15. The exceedance fees that were submitted by Aexcel were calculated incorrectly because the tonnage exemption was not calculated based on the total VOC content contained in the coatings.
16. Aexcel did not submit tonnage exemption and exceedance fee reports to the correct address listed in 40 C.F.R. § 59.409.

#### Violations

17. Since September 13, 1999, Aexcel has violated 40 C.F.R. § 59.402(a) by failing to ensure that the VOC content of the coatings listed in Attachment A, comply with the VOC content limits in Table 1 of Subpart D.
18. Since September 13, 1999, Aexcel has violated 40 C.F.R. § 59.405(a)(3) by failing to provide a written statement of the VOC content on the containers for the coatings listed in Attachment B.

3/31/2004  
Date

  
Stephen Rothblatt, Director  
Air and Radiation Division

**Attachment A****Architectural Coatings Produced by Aexcel.**

Aexcel Coating Item Number	Label Name	Uses	VOC Limit (g/l)	VOC Actual (g/l)	Category from Table 1, Subpart D
12A-D030	Black Zone Marking Paint	TT-P-110C, Type I and TT-P-85E (Traffic Paints)	150	391	Traffic Marking
12W-D110	Chlorinated Rubber Zone Marking Paint	Streets, Crosswalks, Parking Lots, Auxiliary Markings	150	362	Traffic Marking
12W-D203	Fast Dry Alkyd Traffic Paint	Parking Lots, Airports, Safety Zones	150	395	Traffic Marking
12W-D238	White Fast Dry Zone Marking Paint	Technical Data Sheet Not Provided	150	416	Traffic Marking
12W-D272	Quick Dry Alky Traffic Paint	Parking Lots, Airports, Safety Zones	150	416	Traffic Marking
12W-D289	Fast Dry Chlorinated Rubber Traffic Paint	Streets, Crosswalks, Parking Lots, and Auxiliary Markings	150	402	Traffic Marking
12W-D307	No Label Provided	Technical Data Sheet Not Provided	150	328	Traffic Marking
12Y-D214	Fast Dry Alkyd Traffic Paint	Parking Lots, Airports, Safety Zones	150	405	Traffic Marking
12Y-D243	Yellow Lead Free Chlorinated Rubber Zone Marking Paint	Streets, Crosswalks, Parking Lots, and Auxiliary Markings	150	367	Traffic Marking

Attachment A

Aexcel Coating Item Number	Label Name	Uses	VOC Limit (g/l)	VOC Actual (g/l)	Category from Table 1, Subpart D
12Y-D248	Yellow Fast Dry Alkyd Traffic Paint - '92	Parking Lots, Airports, Safety Zones	150	418	Traffic Marking
12Y-D286	Quick Dry Alky Traffic Paint	Parking Lots, Airports, Safety Zones	150	424	Traffic Marking
12Y-D287	2' Fast-Dry Alkyd Traffic Zone Marking Paint	Streets, Crosswalks, Parking Lots, and Auxiliary Markings	150	411	Traffic Marking
12Y-D305	Fast Dry Chlorinated Rubber Traffic Paint	Streets, Crosswalks, Parking Lots, and Auxiliary Markings	150	403	Traffic Marking
12Y-D328	No Label Provided	Technical Data Sheet Not Provided	150	332	Traffic Marking
72W-A057	Jet Dry Waterborne Traffic Safety Paint	State and Federal Highways	150	164	Traffic Marking
22C-F011	Clear Acrylic Sealer	Sealer/Primer for Concrete Surfaces	450	688	Primers, Sealers, and Undercoaters

## Attachment B

**Aexcel Architectural Coatings Label Violations.**

<b>Number</b>	<b>Product Code</b>	<b>Label Name</b>	<b>Thinning Information on Label</b>	<b>VOC Content on Label</b>
1	12L-D012	Blue Fast Dry Acrylic Low VOC Zone Marking Paint	Yes	None
2	12R-D047	Red Lead Free Regular Dry Zone Marking Paint	Yes	None
3	12R-D049	Red Lead Free Regular Dry Zone Marking Paint	Yes	None
4	12W-D110	White Chlorinated Zone Marking Paint	Yes	None
5	12W-D195	White Regular Dry Zone Marking Paint	Yes	None
6	12W-D203	White Fast Dry Zone Marking Paint	Yes	None
7	12W-D221	White Regular Dry Zone Marking Paint	Yes	None
8	12W-D238	White Fast Dry Zone Marking Paint	Yes	None
9	12W-D272	White Fast Dry Zone Marking Paint	Yes	None
10	12W-D273	White Fast Dry Zone Marking Paint	Yes	None
11	12W-D276	White Regular Dry Zone Marking Paint	Yes	None
12	12W-D303	White Premium Fast Dry Zone Marking Paint	Yes	None
13	12Y-D206	Yellow Regular Dry Zone Marking Paint	Yes	None
14	12Y-D233	Lead Free Yellow Regular Dry Zone Marking Paint	Yes	None
15	12Y-D272	Lead Free Yellow Regular Dry Zone Marking Paint	Yes	None
16	12Y-D286	Yellow Fast Dry Zone Marking Paint	Yes	None
17	12Y-D287	Yellow Fast Dry Zone Marking Paint	Yes	None
18	12Y-D308	Yellow Fast Dry Chlorinated Lead Free Zone Marking Paint	Yes	None

Number	Product Code	Label Name	Thinning Information on Label	VOC Content on Label
19	12Y-D330	Lead Free Yellow Low VOC Chlorinated Zone Marking Paint	Yes	None
20	22A-A007	Black Regular Dry Waterborne Traffic Safety Paint	Yes	None
21	22A-E001	Black Hi Performance Acrylic Zone Marking Paint	Yes	None
22	22C-F011	Clear Concrete Primer Sealer	None	None
23	22R-A001	Red Airfield Marking Paint	Yes	None
24	25A-G001	Black 50:1 Extrude MMA	None	None
25	25W-G001	White 50:1 Extrude MMA	None	None
26	25W-G008	White MMA Extrude 50:1 Part A	None	None
27	25W-G009	White 4:1 Spray Non-Beaded MMA Part A	None	None
28	25Y-G003	Lead Free Yellow 50:1 Extrude MMA	None	None
29	25Y-G006	Lead Free Yellow 4:1 Spray Non-Beaded MMA Part A	None	None
30	25Y-G012	Lead Free Yellow 4:1 Spray Non-Beaded MMA Part A	None	None
31	72A-A020	Black Fortified Fast Dry Waterborne Acrylic Traffic Safety Paint	Yes	None
32	72A-A023	Black Fast Dry Waterborne Traffic Safety Paint	Yes	None
33	72G-A004	Green Fast Dry Water Reducible Traffic Safety Paint	Yes	None
34	72L-A002	Blue Fast Dry Water Reducible Traffic Safety Paint	Yes	None
35	72L-A004	Blue Fortified Jet Dry Waterborne Acrylic Traffic Safety Paint	Yes	None
36	72L-A009	Blue Fast Dry Waterborne Traffic Safety Paint	Yes	None
37	72L-A011	Blue Fast Dry Waterborne Traffic Safety Paint	Yes	None

<b>Number</b>	<b>Product Code</b>	<b>Label Name</b>	<b>Thinning Information on Label</b>	<b>VOC Content on Label</b>
38	72R-A002	Red Fast Dry Waterborne Lead Free Traffic Safety Paint	Yes	None
39	72R-A004	Red Fast Dry Waterborne Traffic Safety Paint	Yes	None
40	72R-A005	W.C. Red Fast Dry Waterborne Lead Free Traffic Safety Paint	Yes	None
41	72R-A007	Red Epoxy Fortified Fast Dry Waterborne Traffic Safety Paint	Yes	None
42	72R-A011	Red Fast Dry Waterborne Lead Free Traffic Safety Paint	Yes	None
43	72W-A017	White Water Reducible Field Marking Paint	Yes	None
44	72W-A034	White Jet Dry Waterborne Traffic Safety Paint	Yes	None
45	72W-A036	White Regular Dry Waterborne Traffic Safety Paint	Yes	None
46	72W-A042	White Jet Dry Waterborne Traffic Safety Paint	Yes	None
47	72W-A050	White Regular Dry Waterborne Traffic Safety Paint	Yes	None
48	72W-A051	White Jet Dry Waterborne Traffic Safety Paint	Yes	None
49	72W-A057	White Jet Dry Waterborne Traffic Safety Paint	Yes	None
50	72W-A070	White Jet Dry Waterborne Traffic Safety Paint	Yes	None
51	72W-A079	White Fortified Fast Dry Waterborne Acrylic Traffic Safety Paint	Yes	None
52	72W-A098	White Jet Dry Waterborne Traffic Safety Paint	Yes	None
53	72Y-A018	Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
54	72Y-A021	Yellow Regular Dry Waterborne Traffic Safety Paint	Yes	None



Number	Product Code	Label Name	Thinning Information on Label	VOC Content on Label
55	72Y-A027	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
56	72Y-A029	Lead Free Yellow Regular Dry Waterborne Traffic Safety Paint	Yes	None
57	72Y-A038	Yellow Fast Dry Waterborne Traffic Safety Paint	Yes	None
58	72Y-A041	Yellow Regular Dry Waterborne Traffic Safety Paint	Yes	None
59	72Y-A044	Lead Free Yellow Fast Dry Waterborne Traffic Safety Paint	Yes	None
60	72Y-A047	Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
61	72Y-A051	Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
62	72Y-A056	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
63	72Y-A057	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
64	72Y-A059	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
65	72Y-A065	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
66	72Y-A077	Lead Free Yellow Fortified Fast Dry Waterborne Acrylic Traffic Safety Paint	Yes	None
67	72Y-A080	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None
68	72Y-A082	Lead Free Yellow HD-21 Waterborne Acrylic Traffic Safety Paint	Yes	None
69	72Y-A084	Bengal's Orange Fast Dry Water Reducible Traffic Safety Paint	Yes	None

<b>Number</b>	<b>Product Code</b>	<b>Label Name</b>	<b>Thinning Information on Label</b>	<b>VOC Content on Label</b>
70	72Y-A087	Lead Free Yellow Regular Dry Waterborne Traffic Safety Paint	Yes	None
71	72Y-A093	Lead Free Yellow Jet Dry Waterborne Traffic Safety Paint	Yes	None

CERTIFICATE OF MAILING

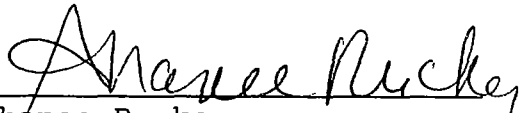
I, Shanee Rucker, certify that I sent a Finding of Violation, No. EPA-5-04-OH-[ ], by Certified Mail, Return Receipt Requested, to:

John S. Milgram, President  
Aexcel Corporation  
7373 Production Drive  
Mentor, Ohio 44060

I also certify that I sent copies of the Finding of Violation by first class mail to:

Dennis Bush, APC Supervisor  
Northeast District Office  
2110 E. Aurora Rd.  
Twinsburg, Ohio 44087

on the 31<sup>th</sup> day of March, 2004.

  
Shanee Rucker,  
Administrative Program Assistant  
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 000615648016